

Request for Reconsideration after Final Action

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	79142478
LAW OFFICE ASSIGNED	LAW OFFICE 110
MARK SECTION (no change)	
ARGUMENT(S)	
REMARKS	
Please find attached Request for Reconsideration and Exhibit 1 in response to the Final Office Action dated September 17, 2014.	
AMENDMENT TO THE GOODS	
Amendments to the goods are being made herewith.	
NOTICE OF APPEAL	
A Notice of Appeal is being filed concurrently herewith.	
CLOSING	
If the Examining Attorney has any questions, she is invited to contact applicant's attorney at the number below or sarah.nagae@cojk.com.	
EVIDENCE SECTION	
EVIDENCE FILE NAME(S)	
ORIGINAL PDF FILE	evi_6713915899-20150312140705796570_.Request_for_Reconsiderationpdf.pdf
CONVERTED PDF FILE(S) (3 pages)	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0002.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0004.JPG
ORIGINAL PDF	evi_6713915899-

FILE	20150312140705796570 . Exhibit 1 to Req for Reconsideration.pdf
CONVERTED PDF FILE(S) (4 pages)	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\791\424\79142478\xml12\RFR0008.JPG
DESCRIPTION OF EVIDENCE FILE	Request for Reconsideration and Exhibit 1
GOODS AND/OR SERVICES SECTION (current)	
INTERNATIONAL CLASS	009
DESCRIPTION	
Computer software and application software for controlling the operation of audio and video devices, mobile phones, and the transmission of data, for use in the fields of safety, healthcare, prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, healthcare, prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors	
GOODS AND/OR SERVICES SECTION (proposed)	
INTERNATIONAL CLASS	009
TRACKED TEXT DESCRIPTION	
Computer software and application software for controlling the operation of audio and video devices, mobile phones, and the transmission of data, for use in the fields of safety, healthcare, prevention of personal injuries, and protection of property; Computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for use in the fields of safety, and prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, healthcare, prevention of personal injuries, and protection of property; downloadable databases in the fields of safety, and prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors	
FINAL DESCRIPTION	
Computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for use in the fields of safety, and prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, and prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity	

sensors; alarm sensors	
SIGNATURE SECTION	
RESPONSE SIGNATURE	/Sarah E. Nagae/
SIGNATORY'S NAME	Sarah E. Nagae
SIGNATORY'S POSITION	Attorney of Record, Washington State Bar Member
SIGNATORY'S PHONE NUMBER	206-682-8100
DATE SIGNED	03/12/2015
AUTHORIZED SIGNATORY	YES
CONCURRENT APPEAL NOTICE FILED	NO
FILING INFORMATION SECTION	
SUBMIT DATE	Thu Mar 12 15:32:53 EDT 2015
TEAS STAMP	USPTO/RFR-67.139.158.99-2 0150312153253877844-79142 478-530dab1e42f57d857f9a2 a7bb57dd1ff8b6fa7ca4c0f47 3ac79a409219a8ceb477-N/A- N/A-20150312140705796570

Request for Reconsideration after Final Action To the Commissioner for Trademarks:

Application serial no. **79142478** has been amended as follows:

ARGUMENT(S)

In response to the substantive refusal(s), please note the following:

REMARKS

Please find attached Request for Reconsideration and Exhibit 1 in response to the Final Office Action dated September 17, 2014.

AMENDMENT TO THE GOODS

Amendments to the goods are being made herewith.

NOTICE OF APPEAL

A Notice of Appeal is being filed concurrently herewith.

CLOSING

If the Examining Attorney has any questions, she is invited to contact applicant's attorney at the number below or sarah.nagae@cojk.com.

EVIDENCE

Evidence in the nature of Request for Reconsideration and Exhibit 1 has been attached.

Original PDF file:

[evi_6713915899-20150312140705796570_.Request_for_Reconsiderationpdf.pdf](#)

Converted PDF file(s) (3 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

Original PDF file:

[evi_6713915899-20150312140705796570_.Exhibit_1_to_Req_for_Reconsideration.pdf](#)

Converted PDF file(s) (4 pages)

[Evidence-1](#)

[Evidence-2](#)

[Evidence-3](#)

[Evidence-4](#)

CLASSIFICATION AND LISTING OF GOODS/SERVICES

Applicant proposes to amend the following class of goods/services in the application:

Current: Class 009 for Computer software and application software for controlling the operation of audio and video devices, mobile phones, and the transmission of data, for use in the fields of safety, healthcare, prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, healthcare, prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors

Original Filing Basis:

Filing Basis Section 66(a) , Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

Proposed:

Tracked Text Description: ~~Computer software and application software for controlling the operation of audio and video devices, mobile phones, and the transmission of data, for use in the fields of safety, healthcare, prevention of personal injuries, and protection of property;~~ [Computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for](#)

use in the fields of safety, and prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; ~~downloadable databases in the fields of safety, health care, prevention of personal injuries, and protection of property~~; downloadable databases in the fields of safety, and prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors

Class 009 for Computer software and application software for controlling the operation of audio devices, mobile phones, and the transmission of data, for use in the fields of safety, and prevention of personal injuries, and protection of property; computer software and application software to detect vehicle and personal locations; computer software and application software for provision of traffic information; downloadable databases in the fields of safety, and prevention of personal injuries, and protection of property; temperature sensors; optical sensors; movement sensors; acceleration sensors; humidity sensors; alarm sensors

Filing Basis Section 66(a) , Request for Extension of Protection to the United States. Section 66(a) of the Trademark Act, 15 U.S.C. §1141f.

SIGNATURE(S)

Request for Reconsideration Signature

Signature: /Sarah E. Nagae/ Date: 03/12/2015

Signatory's Name: Sarah E. Nagae

Signatory's Position: Attorney of Record, Washington State Bar Member

Signatory's Phone Number: 206-682-8100

The signatory has confirmed that he/she is an attorney who is a member in good standing of the bar of the highest court of a U.S. state, which includes the District of Columbia, Puerto Rico, and other federal territories and possessions; and he/she is currently the applicant's attorney or an associate thereof; and to the best of his/her knowledge, if prior to his/her appointment another U.S. attorney or a Canadian attorney/agent not currently associated with his/her company/firm previously represented the applicant in this matter: (1) the applicant has filed or is concurrently filing a signed revocation of or substitute power of attorney with the USPTO; (2) the USPTO has granted the request of the prior representative to withdraw; (3) the applicant has filed a power of attorney appointing him/her in this matter; or (4) the applicant's appointed U.S. attorney or Canadian attorney/agent has filed a power of attorney appointing him/her as an associate attorney in this matter.

The applicant is not filing a Notice of Appeal in conjunction with this Request for Reconsideration.

Serial Number: 79142478

Internet Transmission Date: Thu Mar 12 15:32:53 EDT 2015

TEAS Stamp: USPTO/RFR-67.139.158.99-2015031215325387

7844-79142478-530dab1e42f57d857f9a2a7bb5

7dd1ff8b6fa7ca4c0f473ac79a409219a8ceb477

-N/A-N/A-20150312140705796570

1. Introduction

This amendment and these remarks are in response to the September 17, 2014 Office Action.

2. Current Amendment

Applicant submits an amendment herewith. The amendment is made to further clarify that applicant's goods are not related to those of the registrant. Specifically, registrant's goods are "Video cameras; Webcams; Computer programs for driving, operating and interfacing video cameras with computers; Computer peripherals; Wireless computer peripherals."

With this amendment, applicant deletes goods that specify software for controlling the operation of video devices, and also goods that are directed to the field of healthcare. With these amendments, applicant submits that there is no likelihood of confusion between the marks based on the marks themselves and on the parties' respective goods.

3. Marks Convey Different Commercial Impressions

In the current Office Action, the Examining Attorney states:

While the examining attorney maintains the position that the marks do look and sound alike, the examining attorney also believes the marks do not convey different commercial impressions based on the additional letter "Q" because there is no indication in the cited registration that "IREZ" is intended to mean "iris" and there is no clear indication that "IREZQ" is intended to mean "I rescue" in the applied-for mark.

Applicant disagrees with this statement, particularly the claim that there is no indication in the cited registration that "IREZ" is intended to mean "iris." The cited registration is for the below design mark.



The registration attached to the first Office Action includes a "Description of Mark" that reads "The mark consist[sic] of an abstract depiction of an eye over the word 'IREZ'." The iris is a part of the eye. See Exhibit 1 attached. Based on this information, the logical conclusion to be made is that the wording "IREZ" in the registered mark is a play on the word "iris." As noted above, registrant's goods include various types of cameras. Given that the iris is part of the eye, its connection with cameras is an integral part of the registrant's mark. The wording of the mark and the design go together to depict an eye and to reference as "iris." Thus, the registered mark creates a unique commercial impression that allows consumers to distinguish the registered mark from applicant's mark.

4. Third-Party Marks Cited by Applicant in Response to Office Action

In the current Office Action, the Examining Attorney states:

Lastly, applicant has submitted a list of registrations. However, the mere submission of a list of registrations or a copy of a private company search report does not make such registrations part of the record. *In re Promo Ink*, 78 USPQ2d 1301, 1304 (TTAB 2006); TBMP §1208.02; TMEP §710.03.

To make third party registrations part of the record, an applicant must submit copies of the registrations, or the *complete* electronic equivalent from the USPTO's automated systems, prior to appeal. *In re Jump Designs LLC*, 80 USPQ2d 1370, 1372-73 (TTAB 2006); *In re Ruffin Gaming*, 66 USPQ2d, 1924, 1925 n.3 (TTAB 2002); TBMP §1208.02; TMEP §710.03.

The list of registrations referred to by the Examining Attorney was in fact seven search results pages from TESS showing the extreme rareness of active marks that include goods in class 9 and that end in the letter "Q." The data relied on by applicant for this argument is all from the USPTO online database. Because it is not practical to print out TESS or TSDR records for each of the over 150,000 marks referenced, applicant instead attached the TESS reports showing the search strings used and the "Record List Display" pages for each of the searches.

Because applicant is relying on the USPTO's own database and because applicant's argument is based on the sheer number of active applications and registrations located by the particular queries, it does not seem reasonable for the Examining Attorney to require that each record be attached to the Office Action response before the applicant's argument is considered. With this perspective in mind,

Applicant asks that the Examining Attorney consider the arguments and evidence included in applicant's response to the first Office Action.

5. Closing

For the reasons above, applicant requests that the Examining Attorney withdraw the refusal to register and approve the mark for publication.

Iris - definition of Iris by The Free Dictionary

<http://www.thefreedictionary.com/Iris>

Iris

Also found in: [Medical](#), [Legal](#), [Acronyms](#), [Encyclopedia](#), [Wikipedia](#).

I·ris (ī'ris)

n. Greek Mythology

The goddess of the rainbow and messenger of the gods.

[Latin *Īris*, from Greek, from *īris*, *rainbow*; see [wei-](#) in [Indo-European roots](#).]

i·ris (ī'ris)

n. pl. i·ris·es or i·ri·des (ī'ri-dēz', ī'rī-)

1. The pigmented, round, contractile membrane of the eye, suspended between the cornea and lens and perforated by the pupil. It regulates the amount of light entering the eye.
2. Any of numerous widely cultivated plants of the genus *Iris*, having narrow sword-shaped leaves and showy, variously colored flowers.
3. A rainbow or rainbowlike display of colors.
4. An iris diaphragm.



iris

Iris × robusta

[Middle English, *iris* (*the plant*), from Latin *īris*, *īrid-*, *rainbow*, *iris* (*the plant*), from Greek, *rainbow*, *brightly-colored gemstone*, *iris of the eye*; see [wei-](#) in [Indo-European roots](#).]

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Iris ('aɪrɪs)

n

1. (Classical Myth & Legend) the goddess of the rainbow along which she travelled to earth as a messenger of the gods

iris ('aɪrɪs)

n, pl irises or irides ('aɪrɪ,diːz; 'ɪrɪ-)

1. (Anatomy) the coloured muscular diaphragm that surrounds and controls the size of the pupil
2. (Plants) Also called: **fleur-de-lys** any plant of the iridaceous genus *Iris*, having brightly coloured flowers composed of three petals and three drooping sepals. See also [flag](#)³, [orris](#)¹, [stinking iris](#)
3. (Minerals) Also called: **rainbow quartz** a form of quartz that reflects light polychromatically from internal fractures
4. a rare or poetic word for [rainbow](#)

5. something resembling a rainbow; iridescence
6. (Photography) short for **iris diaphragm**

[C14: from Latin: rainbow, iris (flower), crystal, from Greek]

Collins English Dictionary – Complete and Unabridged © HarperCollins Publishers 1991, 1994, 1998, 2000, 2003

i•ris ('aɪ rɪs)

n., *pl.* **i•ris•es**; *esp. for 1,8* **i•i•des** ('ɪr ɪˌdɪz, 'aɪ rɪ-) *for 2,3* **i•ris**; *n.*

1. the contractile, circular diaphragm forming the colored portion of the eye and containing an opening, the pupil, in its center.
2. any plant of the genus *Iris*, having flowers with three upright petals and three drooping, petallike sepals.
3. a flower of this plant.
4. (*cap.*) an ancient Greek goddess of the rainbow and messenger of the gods.
5. a rainbow.
6. **iris diaphragm**.

v.i.

[1350–1400; Middle English < Latin *Īris*, *īris* < Greek *Îris*, *îris* rainbow]

Random House Kernerman Webster's College Dictionary, © 2010 K Dictionaries Ltd. Copyright 2005, 1997, 1991 by Random House, Inc. All rights reserved.

i•ris (ī'ris)

The colored part around the pupil of the eye in vertebrate animals, located between the cornea and lens. Contraction and expansion of the muscular iris controls the size of the pupil, thereby regulating the amount of light reaching the retina.

The American Heritage® Dictionary of Student Science, Second Edition. Copyright © 2014 by Houghton Mifflin Harcourt Publishing Company. Published by Houghton Mifflin Harcourt Publishing Company. All rights reserved.

iris

The circular colored part of the eye surrounding the pupil. Muscle fibers that make the iris contract alter pupil size, and so the amount of light entering the eye.

Dictionary of Unfamiliar Words by Diagram Group Copyright © 2008 by Diagram Visual Information Limited

Thesaurus

Legend:  Synonyms  Related Words  Antonyms

Noun 1.

iris - plants with sword-shaped leaves and erect stalks bearing bright-colored flowers composed of three petals and three drooping sepals

≡ **fleur-de-lis, sword lily, flag**

↔ **iridaceous plant** - any bulbous plant of the family Iridaceae

↔ **genus Iris** - large genus of perennials that develop from bulbs or rhizomes

↔ **bearded iris** - any of numerous wild or cultivated irises with hairlike structures on the falls (the drooping sepals)

↔ **beardless iris** - any of numerous wild or cultivated irises having no hairs on the drooping sepals (the falls)

↔ **bulbous iris** - any of various irises having a rootstock formed like a bulb

↔ **Iris cristata, dwarf iris** - low-growing summer-flowering iris of northeastern United States

↔ **gladdon, gladdon iris, Iris foetidissima, roast beef plant, stinking gladwyn, stinking iris** - iris with purple flowers and foul-smelling leaves; southern and western Europe and North Africa

↔ **Iris persica, Persian iris** - bulbous iris native to Asia Minor cultivated for its pale lilac-colored flowers

↔ **Iris pseudacorus, yellow flag, yellow iris, yellow water flag** - common yellow-flowered iris of Europe and North Africa, naturalized in United States and often cultivated

↔ **dwarf iris, Iris verna, vernal iris** - low-growing spring-flowering American iris with bright blue-lilac flowers

↔ **blue flag, Iris versicolor** - a common iris of the eastern United States having blue or blue-violet flowers; root formerly used medicinally

↔ **Iris virginica, southern blue flag** - similar to blue flag; the eastern United States

↔ **English iris, Iris xiphioides** - bulbous iris native to the Pyrenees; widely cultivated for its large delicate flowers in various colors except yellow

2. **iris** - muscular diaphragm that controls the size of the pupil which in turn controls the amount of light that enters the eye; it forms the colored portion of the eye

↔ **eye, oculus, optic** - the organ of sight

↔ **pupil** - the contractile aperture in the center of the iris of the eye; resembles a large black dot

↔ **tissue layer, membrane** - a pliable sheet of tissue that covers or lines or connects the organs or cells of animals or plants

3. **iris** - diaphragm consisting of thin overlapping plates that can be adjusted to change the diameter of a central opening

≡ **iris diaphragm**

↔ **diaphragm, stop** - a mechanical device in a camera that controls size of aperture of the lens; "the new cameras adjust the diaphragm automatically"



Based on WordNet 3.0, Farlex clipart collection. © 2003-2012 Princeton University, Farlex Inc.

Translations

Select a language:  Spanish / Español ▼

iris ['aɪərɪs] *N* (irises (*pl*))

1. (*Anat*) → **iris** *m inv*
2. (*Bot*) → **lirio** *m*

Collins Spanish Dictionary - Complete and Unabridged 8th Edition 2005 © William Collins Sons & Co. Ltd. 1971, 1988 © HarperCollins Publishers 1992, 1993, 1996, 1997, 2000, 2003, 2005

iris ('aɪərɪs) *noun*

1. the coloured part of the eye.
iris
2. a kind of brightly-coloured flower with sword-shaped leaves.
lirio

Kernerman English Multilingual Dictionary © 2006-2013 **K Dictionaries Ltd.**

Iris →

iris 

Multilingual Translator © HarperCollins Publishers 2009

i·ris

n. iris, membrana contráctil del humor acuoso del ojo situada entre el cristalino y la córnea, que regula la entrada de la luz.

English-Spanish Medical Dictionary © Farlex 2012

iris *n* (*pl* irides *o* irises) iris *m*

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